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**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

April 10, 2009

Operating Manager
San Rafael Sanitation District
111 Morphew Street
San Rafael, CA 94901

City Manager
City of San Rafael
111 Morphew Street
San Rafael, CA 94901

Operating Manager
Sanitary District No.1 of Marin County
1301 Andersen Drive
San Rafael, CA 94901

Operating Manager
Sanitary District No.2 of Marin County
Corte Madera Public Works -
Engineering Offices
233 Tamalpais Drive #200
Corte Madera, CA 94925

Operating Manager
Murray Park Sewer Maintenance District
Marin County Board of Supervisors
3501 Civic Center Drive, Room 330
San Rafael, CA 94903

Town Manager
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

Town Manager
Town of San Anselmo
52 San Anselmo Avenue
San Anselmo, CA 94960

Town Manager
Town of Ross
31 Sir Francis Drake Boulevard
Ross, CA 94957

City Manager
City of Larkspur
400 Magnolia Avenue
Larkspur, CA 94939

Operating Manager
San Quentin Village Sewer Maintenance
District
Marin County Board of Supervisors
3501 Civic Center Drive, Room 330
San Rafael, CA 94903

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Managers, Operators and/or Owners:

NOTICE

The Clean Water Act ("CWA" or the "Act") Section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

Northern California River Watch ("River Watch") hereby places the above-addressed satellite collection system owners and/or operators, (hereinafter referred to as the "Satellites"), including San Rafael Sanitation District, City of San Rafael, Sanitary Districts No. 1 and No. 2 of Marin County, Murray Park Sewer Maintenance District, San Quentin Village Sewer Maintenance District, Town of Fairfax, Town of San Anselmo, Town of Ross and City of Larkspur, which Satellites collect and convey wastewater for treatment to the Central Marin Sanitation Agency, (hereinafter referred to as the "Discharger"), on notice, that following the expiration of sixty (60) days from the date of this Notice, River Watch intends to bring suit in the United States District Court against the Satellites for continuing violations of an effluent standard or limitation, permit condition or requirement, a Federal or State Order or Plan issued under the CWA in particular, but not limited to CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Regional Water Quality Control Board's Basin Plan, as exemplified by the incidents of non-compliance identified and outlined below.

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

To comply with this requirement River Watch has identified discharges from the Satellites' collection systems of raw sewage to surface waters in violation of the prohibition of the CWA with regard to discharging a pollutant from a point source to waters of the United States without a NPDES permit, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

2. *The activity alleged to constitute a violation.*

River Watch has set forth narratives below describing the discharges of raw sewage to surface waters as the activities leading to violations and describing with particularity specific incidents referenced in the California State Water Resources Control Board's ("SWRCB") California Integrated Water Quality System ("CIWQS 4.5") SSO Public Reports and other public documents in the Satellites' possession or otherwise available to the Satellites, and incorporates by reference the records cited below from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The person or persons responsible for the alleged violations are the entities to whom this letter is addressed, identified collectively in this Notice as the "Satellites", and those of the Satellites' employees responsible for compliance with any National Pollutant Discharge Elimination System ("NPDES") Permit.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in records either created or maintained by or for the Satellites, including the records cited below in this Notice and the description of specific incidents referenced below.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined SWRCB and Regional Water Quality Control Board records for the period from April 1, 2004 to April 1, 2009. The range of dates covered by this Notice is from April 1, 2004 through April 1, 2009. River Watch will from time to time update this Notice to include all violations which occur after the range of dates currently covered by this Notice. Some of the violations are continuous and therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving notice is Northern California River Watch, 500 North Main Street, Suite 110, Sebastopol, CA 95472, Telephone/Facsimile 707-824-4372, referred to throughout this Notice as "River Watch". River Watch is a non-profit corporation organized under the laws of the State of California, dedicated to the protection and enhancement of the waters of

the State of California including all rivers, creeks, streams and groundwater in Northern California.

River Watch has retained legal counsel to represent them in this matter. All communications should be addressed to:

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Law Offices of Jack Silver
Jerry Bernhaut, Esquire
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. 707-528-8175
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INTRODUCTION

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of enumerated statutory exceptions. One such exception authorizes a polluter, which has been issued a permit pursuant to CWA § 402, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the 33 U.S.C. § 1311(a) prohibition, such that violation of a NPDES permit limitation places a polluter in violation of 33 U.S.C. § 1311(a) and thus in violation of the CWA. Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f)(1).

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the EPA to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. (See 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this Notice is the Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB").

The Satellites collect residential, industrial and commercial sewage which they pump to the Discharger's treatment plant located in San Rafael California. The Discharger's

Permit findings indicate that the Discharger's treatment plant has an average dry weather flow of 7.5 million gallons per day ("MGD"). The fact sheet indicates that the peak wet weather flow in 2006 was 115 MGD, an increase by a multiple of greater than 15. The exponential increase in wet weather flow indicates a very high level of inflow and infiltration ("I/I") into the Satellites' collection systems. The Discharger's 'No Feasible Alternatives Analysis for Blending Peak Wet Weather Flows' discusses the Satellites' sewage system management plans and capital improvements programs, whereby they conduct system condition assessments and replace or rehabilitate approximately one per cent of their sewer lines per year. While these efforts are commendable, they fall far short of guaranteeing a substantial reduction of future I/I into the Satellites' collection systems, which consist in large part of sewer lines fifty years old or older which have suffered from years of deferred maintenance.

The structural defects in the Satellites' collection systems, which allow I/I into the sewer lines, result in a build-up of pressure which causes sewage system surface overflows. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains which are connected to adjacent surface waters such as wetlands, creeks and the San Francisco Bay. Some surface overflows discharge directly overland into surface waters. Underground leakages caused by pipeline cracks and other defects result in discharges to these adjacent surface waters via underground hydrological connections. The San Francisco Bay, tributary creeks including San Rafael Creek and Miller Creek and adjacent wetlands are waters of the United States. Surface waters and ground water become contaminated with fecal coliform, exposing people to human pathogens. The Satellites' chronic collection system failures pose a substantial threat to public health.

The CWA prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. Any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the CWA. In addition, many Basin Plans adopted by the Regional Water Quality Control Boards contain discharge prohibitions which apply to the discharge of untreated or partially treated wastewater.

Discharges by the Satellites as described herein constitute a nuisance. These discharges are either: injurious to health; indecent or offensive to the senses; an obstruction to the free use of property; and occur during, or as a result of, the transportation, disposal or treatment of wastes.

The Satellites' collection systems operations are not regulated under a NPDES Permit, but are currently regulated under the Statewide General Waste Discharge Requirements For Sanitary Sewer Systems, Order No. 2006-003-DWQ (hereafter "Statewide WDR"), adopted on May 2, 2006. The Statewide WDR requires satellite systems to develop a Sewage System Management Plan. The Sewage System Management Plan developed for the Satellites includes a system evaluation and maintenance plan, however, the contemplated time lines for implementation of concrete measures are as long as 10 to 15 years into the future.

The Satellites' ongoing violations - discharging pollutants to United States waters without a NPDES Permit - pose an immediate threat to public health and the environment, both from surface water impacts of surface overflows and underground leakage of untreated sewage, as well as from the impacts of I/I on the Discharger's treatment system, including the need to continue to bypass secondary treatment units during high wet weather flows projected indefinitely into the future.

REMEDIAL MEASURES REQUESTED

River Watch believes that the following remedial measures are necessary to bring the Satellites into compliance with the CWA, and to prioritize remedial measures to reflect the biological impacts of their ongoing non-compliance:

1. A reduction of collection system I/I through an aggressive collection system management, operation and maintenance ("CMOM") program, with the coordinated cooperation of the Discharger and all the agencies which have operational and/or ownership responsibility for the sewage collection systems which convey untreated sewage for treatment at the Discharger's treatment plant, including clear time lines for prioritized repairs.
2. Mandatory private sewer lateral inspection and repair programs, funded cooperatively by the Discharger and its member agencies, triggered by sale of property or based on geographical, age and/or composition factors, preferably coordinated with repair of the sewer mains to which the laterals are connected. In the alternative, a voluntary program whereby the governing agency negotiates discounted group rates for private lateral inspection and repair in conjunction with repair of the mains to which the laterals are connected, supported by a grant and/or low cost loan program funded and administered in a joint program cooperatively by the Discharger and its member agencies. The Tamalpais Community Services District program provides a successful model.

3. Development of a pre-treatment/source control program, as described in the Discharger's Permit at Provision C.3.c, for all priority pollutants for which analytical results were j-flagged in more than one self-monitoring report, said program to be funded and administered cooperatively by the Discharger and all the Satellites.
4. Creation of website capacity to receive private party reports of sewage overflows. Provision of notification to all customers and other members of the public as to the existence of the web-based program, including a commitment to respond to private parties submitting overflow reports. Included on said website would be regularly updated information regarding known overflows for the prior three years, tracking repeated overflows at the same or proximate locations in order to highlight hot spots for priority rehabilitation status. Also to be included is information regarding the time an overflow was reported, the estimated time it began, its estimated flow rate, cleanup activities and proximity to storm drains or other water channels so the public has access to the basis for a report that an overflow did not reach a surface water.
5. Development of a source control program to limit the entry of fats, oil, grease and debris, which cause blockages into the sewage collection systems, funded and administered cooperatively by the Discharger and all the Satellites.
6. Performance of human marker testing on surface waters adjacent to sewer lines to test for sewage contamination from underground exfiltration, said testing to be funded and administered cooperatively by the Discharger and all the Satellites. Test results to be considered in prioritizing sewer line rehabilitation.

VIOLATIONS

From April 1, 2004, through April 1, 2009, the Satellites have violated the CWA, the Basin Plan and the Code of Federal Regulations for discharging pollutants to waters of the United States from their collection systems without a NPDES permit. The below-listed violations are reported by the SWRCB staff, and evidenced by the SWRCB's CIWQS 4.5 SSO Reporting Program Database Records. Furthermore these violations are continuing.

SANITARY DISTRICT NO. 1 OF MARIN COUNTY

<u>Violations</u>	<u>Description</u>
690	Collection system overflows caused by underground exfiltration which reaches surface water via migration through underground tributaries.

This is a case in which untreated sewage is discharged from the collection system prior to reaching the treatment plant. Underground discharges are alleged to have been continuous throughout the period from May 1, 2007 to March of 2009. Evidence to support the allegation of underground discharge of raw sewage exists in the Sanitary District's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the Discharger's treatment plant reported in the Discharger's records, video inspection of the collection system, and testing of waterways adjacent to sewer lines, including creeks, wetlands and Central San Francisco Bay, for nutrients, pathogens and other constituents indicating sewage contamination, such as caffeine.

150 Sewage system surface overflows.

As documented by the CIWQS 4.5 SSO reports, Sanitary District No. 1 of Marin County has had sewer system surface overflows at a total of 73 locations between May of 2007 and March of 2009, with a total volume of 14,550 gallons. A total of 3,350 gallons were recovered and 3,000 gallons reached surface waters.

These include the following:

Overflow of 3,480 gallons on June 5, 2007, all of which reached surface water, occurring at 12 Allyn Avenue, San Anselmo;

Overflow of 24,000 gallons on January 25, 2008, all of which reached surface water, occurring at 807 San Rafael Avenue, San Anselmo;

Overflow of 8,000 gallons, on February 24, 2008, all of which reached surface water, occurring at 40 Green Valley Court, San Anselmo; and,

Overflow of 18,198 gallons on November 19, 2007, 17,998 of which reached surface water, occurring at 1100 Eliseo Drive, Greenbrae.

Also, unrecorded overflows witnessed by local residents.

120 Failure to monitor, report or adequately describe violations.

The majority of these violations occur due to failure to accurately estimate the volume of surface overflows and/or to report as a violation a surface overflow where some portion of the volume reached a storm drain or other channel connecting to a surface water

SANITARY DISTRICT NO. 2 OF MARIN COUNTY

<u>Violations</u>	<u>Description</u>
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690	Collection system overflows caused by underground exfiltration which reaches surface water via migration through underground tributaries.
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This is a case in which untreated sewage is discharged from the collection system prior to reaching the treatment plant. Underground discharges are alleged to have been continuous throughout the period from May of 2007 through April of 2009. Evidence to support the allegation of underground discharge of raw sewage exists in the Sanitary District's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the treatment plant reported in the Discharger's records, video inspection of the collection system, and testing of waterways adjacent to sewer lines, including creeks, wetlands and Central San Francisco Bay, for nutrients, pathogens and other constituents indicating sewage contamination, such as caffeine.

30	Sewage system surface overflows.
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As evidenced in CIWQS 4.5 SSO Reports Records, sewage system overflows for Sanitary District No. 2 include the overflow of 480 gallons, on May 10, 2008, 120 gallons of which reached surface water, occurring at 161 Jamaica Street, Tiburon.

Based on the CIWQS 4.5 SSO Reports Records, Sanitary District No. 2 of Marin County has a substantial number of surface overflows but allegedly recovers a high percentage of the overflow volume reported. For example, the record shows only one incident of 120 gallons reaching a surface water between March of 2007 and April of 2009. However, it has been River Watch's experience when reviewing sewer system records and subsequently conducting further discovery, that flow volumes are sometimes understated and the proximity of discharges to storm drains raises questions regarding the credibility of reports that none of the discharged volume reached surface water. If further discovery validates the Sanitary District's discharge volume estimates and recovery rates, and shows minimal unreported overflows, River Watch will consider that surface overflows which reach surface water are not a serious source of violations for Sanitary District No. 2. The high number of

surface overflows does indicate substantial structural defects in the Sanitary District's sewer lines resulting in high I/I and ongoing underground leakage/exfiltration of untreated sewage, some of which reaches surface water.

Also, unrecorded overflows witnessed by local residents.

120 Failure to monitor, report or adequately describe violations.

The majority of these violations occur due to the Sanitary District's failure to accurately estimate the volume of surface overflows and/or to report as a violation a surface overflow where some portion of the volume reached a storm drain or other channel connecting to a surface water

SAN RAFAEL SANITATION DISTRICT

<u>Violations</u>	<u>Description</u>
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690	Collection system overflows caused by underground exfiltration which reaches surface water via migration through underground tributaries.
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This is a case in which untreated sewage is discharged from the collection system prior to reaching the Discharger's treatment facility. Underground discharges are alleged to have been continuous throughout the period from May of, 2007 to April of 2009. Evidence to support the allegation of underground discharge of raw sewage exists in the Sanitation District's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the treatment plant reported in the Discharger's records, video inspection of the collection system, and testing of waterways adjacent to sewer lines, including creeks, wetlands and Central San Francisco Bay, for nutrients, pathogens and other constituents indicating sewage contamination, such as caffeine.

50	Sewage system surface overflows.
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As evidenced both in CIWQS 4.5 SSO Reports Records (from May, of 2007 to March of 2009) and in the Sanitation District's Reports prior to those recorded in the CIWQS data base, sewage system overflows include the overflow of 6,000 gallons on February 24, 2008, 3,000 of which reached

surface water, occurring at 634 5th Street in San Rafael. Also, unrecorded overflows witnessed by local residents.

Based on the CIWQS 4.5 SSO Reports Records, the San Rafael Sanitation District has a high number of surface overflows, for example, 105 between May 1, 2007 and March 1, 2009, and a low percentage of volume recovered - 3,350 gallons recovered out of a total of 14,550 gallons. This raises an issue of credibility for River Watch regarding the CIWQS records which show only one overflow in which a portion of the discharge (3,000 out of a total of 6,000 gallons), reached surface water. The other reported overflows were of significantly smaller reported volume, which may explain why there was only one reported discharge to surface water between May 1, 2007 and March 1, 2009. The accuracy of volume estimates and the location of the discharges in relation to storm drains is a subject for further discovery. The high number of surface overflows does indicate substantial structural defects in the Sanitation District's sewer lines resulting in high I/I and ongoing underground leakage/exfiltration of untreated sewage, some of which reaches surface water.

120 Failure to monitor, report or adequately describe violations.

The majority of these violations occur due to the Sanitation District's failure to accurately estimate the volume of surface overflows and/or to report as a violation a surface overflow in which some portion of the volume reached a storm drain or other channel connecting to a surface water.

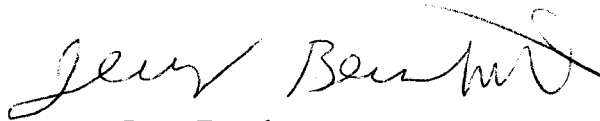
CONCLUSION

The violations as set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected communities. The members of River Watch use the affected watersheds for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shell fish harvesting, hiking, photography, nature walks and the like. The members' health, use and enjoyment of this natural resource is specifically impaired by the Satellites' violations of the CWA as set forth in this Notice.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch intends to file a citizen's suit under CWA § 505(a) against the Satellites for the violations identified and described in this Notice.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted in this Notice. However, if the Satellites wish to pursue such discussions in the absence of litigation, it is suggested that those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when that notice period ends.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jerry Bernhaut".

Jerry Bernhaut

JB:lhbm

cc:

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